

January 10, 2008

Theresa Dukes  
133 West Market Street #307  
Indianapolis, Indiana 46204

*Re: Formal Complaint 08-FC-26; Alleged Violation of the Access to Public Records Act by the Johnson County Sheriff's Office*

Dear Ms. Dukes:

This is in response to your formal complaint alleging the Johnson County Sheriff's Office ("Sheriff") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by altering or editing a public record and by refusing to allow you to inspect the original record. A copy of the Sheriff's response to your complaint is enclosed for your reference. It is my opinion the Sheriff has not violated the APRA.

#### BACKGROUND

In your complaint you allege that you submitted a request to the Sheriff on December 17, 2007 for a copy of all 911 emergency calls from your mobile phone number on November 19, 2007. In addition, you requested any calls you made to the administrative office number on the same date. You allege that you were provided compact disc containing the calls on December 26. You allege that the calls have been altered or edited by the Sheriff. You requested priority status for your complaint. Because you allege you intend to file an action in court related to the matter, priority status has been granted, pursuant to 62 IAC 1-1-3.

The Sheriff responded to your complaint by letter dated January 8 from Colonel Doug Cox. Colonel Cox contends that the dispatch coordinator assures him there is no way to alter or edit a tape that has been copied from the tape recording system at the Sheriff's office. Colonel Cox further alleges that while the call to the administrative office had not yet been located when the Sheriff provided the CD to you. Colonel Cox indicates a copy of that call has now been made available to you. Regarding your request to come to the office and listen to the "unedited master tape," Colonel Cox indicates the computer room and dispatch center are located in the secure portion of the law enforcement facility, and the Sheriff objects to any civilian being in that room.

## ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." I.C. §5-14-3-1. The Sheriff is clearly a public agency for the purposes of the APRA. I.C. §5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Sheriff during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. §5-14-3-3(a).

A "public record" means any writing, paper, report, study, map, photograph, book, card, tape recording or other material that is created, received, retained, maintained or filed by or with a public agency. I.C. §5-14-3-2.

A public agency shall protect public records from loss, alteration, mutilation, or destruction. I.C. §5-14-3-7(a).

Regarding your allegation that the Sheriff has altered or edited the 911 tape, the Sheriff contends the equipment used to record 911 calls does not allow editing or altering of the call. Absent any further evidence of alteration, I cannot find the Sheriff violated section 7 of the APRA.

You further allege that the Sheriff has denied you access to records by refusing to allow you to come to the office and listen to the 911 tapes. The Sheriff contends that the 911 recording system is located in a secure area of the law enforcement facility, and he objects to bringing civilians into that area. The APRA requires the Sheriff to provide access to records by allowing a requester to inspect and copy a record. I.C. §5-14-3-3. Here, the Sheriff has provided you with a copy of the records. If you wish to inspect the records rather than receive a copy, the Sheriff must allow you to inspect the records. I.C. §5-14-3-3. However, nothing in the APRA requires the Sheriff to bring you to the secure facility for inspection. To meet the inspection requirement of the APRA, it is my opinion the Sheriff can bring a copy of the 911 call to a common, non-secure, area of the office and allow you to listen to the record there.

## CONCLUSION

For the foregoing reasons, it is my opinion the Sheriff has not violated the APRA.

Best regards,



Heather Willis Neal  
Public Access Counselor

cc: Douglas Cox, Johnson County Sheriff's Office